

REMARKS/ARGUMENTS

Claims 1-5 and 7-11 are pending. By this Amendment, claim 6 is cancelled without prejudice or disclaimer, claims 1-5 and 7-9 are amended, and new claim 11 is presented. Support for the amendments to claims 1-5 and 7-9 and new claim 11 can be found, for example, in the present specification at page 5, line 21 to page 6, line 7 and page 18, line 20 to page 19, line 2, and in previously presented claims 1-9. No new matter is added. In view of the foregoing amendments and following remarks, reconsideration and allowance are respectfully requested.

Rejection Under 35 U.S.C. §102/§103

Claims 1-10 remain rejected under 35 U.S.C. §102(b), or in the alternative under 35 U.S.C. §103(a), over U.S. Patent No. 5,393,838 to Moczygembe et al. ("Moczygembe 838"). By this Amendment, claim 6 is cancelled, rendering the rejection moot as to that claim. As to the remaining claims, Applicants respectfully traverse the rejection.

Claim 1 recites "[a] linear block copolymer composition, comprising from 55 to 95 mass% of a vinyl aromatic hydrocarbon and from 5 to 45 mass% of a conjugated diene as monomer units; wherein: the linear block copolymer composition is a mixture of linear block copolymers having at least three types of polymer blocks with different molecular weights represented by the following formula: S-B-S where S is a polymer block comprising a vinyl aromatic hydrocarbon as monomer units, and B is a polymer block consisting of conjugated diene monomer units; a molecular weight distribution (Mw/Mn) of a mixture of the polymer blocks is within a range of from 3.35 to 6; in a gel permeation chromatogram of the mixture of the polymer blocks, M1/M2 is within a range of from 12.5 to 25, where M1 is a largest peak top molecular weight among peak top molecular weights corresponding to peaks forming at least 30% of a whole peak area, and M2 is a smallest peak top molecular weight

among peak top molecular weights of 50,000 or less corresponding to peaks forming at least 20% of the whole peak area; and in a gel permeation chromatogram of the linear block copolymer composition, M3/M4 is within a range of from 2.5 to 4.5, where M3 is a largest peak top molecular weight among peak top molecular weights corresponding to peaks forming at least 30% of a whole peak area, and M4 is a smallest peak top molecular weight among peak top molecular weights corresponding to peaks forming at least 15% of the whole peak area" (emphasis added). Moczygembe 838 does not disclose or suggest such a composition.

Claim 1 requires that, in a gel permeation chromatogram of the recited linear block copolymer composition, a ratio of a largest peak top molecular weight (M3) among peak top molecular weights corresponding to peaks forming at least 30% of a whole peak area to a smallest peak top molecular weight (M4) among peak top molecular weights corresponding to peaks forming at least 15% of the whole peak area, is from 2.5 to 4.5. It is undisputed that none of the inventive polymer compositions of Moczygembe 838 have the structure recited in claim 1 – the outstanding rejection turns on whether the comparative polymer compositions shown in TABLE VIII of Moczygembe 838 have the properties recited in claim 1. The comparative polymer compositions shown in TABLE VIII of Moczygembe 838 are not explicitly indicated to, e.g., satisfy the ratio M3/M4 in claim 1. Further, there is nothing in Moczygembe 838 that would suggest to a skilled artisan that such comparative compositions should be modified to satisfy the ratio M3/M4 in claim 1. Finally, Applicants submit that one of ordinary skill in the art would not expect that the comparative polymer compositions shown in TABLE VIII of Moczygembe 838 inherently satisfy the ratio M3/M4.

Moczygembe 838 fails to disclose or suggest each and every feature of claim 1.

As explained, claim 1 is not anticipated by and would not have been rendered obvious by Moczygembe 838. Claims 2-5 and 7-10 depend from claim 1 and, thus, also are not

anticipated by and would not have been rendered obvious by Moczygembe 838.

Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

Double Patenting

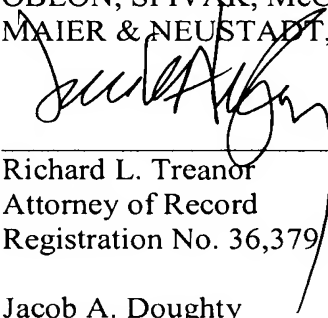
Claims 1-10 remain provisionally rejected under the judicially created doctrine of obviousness-type double patenting over claims 1-13 of U.S. Patent Application No. 10/549,572. Subsequent to commencement of the appeal in this application, the 572 application issued as a patent (U.S. Patent No. 7,714,067). The claims of the 067 patent differ in scope from the claims of the 572 application that formed the basis of the provisional rejection. Accordingly, the provisional rejection is moot. Moreover, the claims of the 067 patent, which are directed to compositions including branched copolymers, do not recite or suggest the linear block copolymer compositions of the present claims.

Conclusion

For the foregoing reasons, Applicants submit that claims 1-5 and 7-11 are in condition for allowance. Prompt reconsideration and allowance are respectfully requested.

Respectfully submitted,

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